

MEMORANDUM

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NATIONAL SECURITY COUNCIL

INFORMATIONSECRET

August 4, 1973

MEMORANDUM FOR: MR. KISSINGER *[Signature]*
 FROM: WILLIAM L. STEARMAN *[Signature]*
 SUBJECT: Draft Agreement on Lao Settlement Protocol

[redacted] a copy of the draft protocol (Tab A) implementing the internal Lao agreement of February 21, 1973 and containing points which the RLG and the Pathet Lao have agreed on, as of July 30. The document as a whole should not be considered definitive as certain minor points are still under discussion between the two sides.

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While the draft protocol improves the agreement in the areas of POW/MIA and in deletion of specific mention of the USG and the RTG, the document -- as it now reads -- contains several worrisome features. In some respects, it does not yet meet our special concerns, particularly on the issues of foreign military aid, unsupervised troop withdrawals, reconnaissance flights, and ICC activities. The following is a list of these unfavorable features. (Most of them derive from objectionable provisions in the basic February agreement. At this late stage we can do little to remedy the deficiencies set forth below.)

-- The Joint National Political Council (JNPC): The draft protocol gives the JNPC a regrettably large role in formulating the domestic and foreign policies of the country which are to be implemented by the coalition government. Article 7 (c) of the protocol specifies that "there must be consultations, consideration and agreement" between the government and the Council (or its standing committee) on these policies. The danger of this cumbersome arrangement lies in the fact that the Pathet Lao are thereby given a double veto on major governmental initiatives, as both bodies operate on the basis of unanimity. While the Vientiane side may protect its interests through exercising its own veto, the arrangement provides a formula for endless debate and administrative paralysis on controversial issues.

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-- Neutralization of Vientiane and Luang Prabang: Article 10 of the agreed draft protocol gives the Pathet Lao a large role in affairs of Laos' two principal cities and severely restricts RLG military and police access. The protocol provides, in effect, that the only armed personnel in these areas will be a joint 1,000-man police force and separate military commands of one battalion each in Vientiane and two companies in Luang Prabang. All other forces -- namely RLG -- must be withdrawn and are prohibited from passing through the capitals except in transit status at the airfields. (One loophole in this arrangement is the provision that withdrawal distances will be determined by the Joint Lao Commission on Implementing the Agreement, which must, in any event, act unanimously.) Combat aircraft are also prohibited from flying through the cities' airspace.

-- Enclaves: While Article 13 of the protocol recognizes and protects the existence of RLG and LPF enclaves, it limits road and air access to these areas by requiring the Joint Lao Commission to fix resupply routes and approve each flight ferrying food through the airspace of the other side.

-- Reconnaissance: Article 14 (b) prohibits all air force activities into the airspace controlled by the other side. Contrary to our strong preference for maintaining a loophole for reconnaissance, "intelligence flights" are specifically precluded.

-- Supervision of Withdrawals: While the language of the protocol is somewhat murky on this point, Article 25 (b) provides for a sketchy ICC check-out procedure. The Article states that the ICC will "control and supervise" withdrawals and will station a team "at the withdrawal site" and on the date provided by the Joint Commission. While it is unlikely that this Joint Commission will in fact ever agree to the requisite date and site, we point out that Souvanna was well aware of our opposition -- due to Thai sensitivities -- to supervised withdrawals and our preference for a post-withdrawal sweep of foreign troop locations.

-- Foreign Military Aid: The draft protocol provides little improvement on the Agreement's unsatisfactory conditions on receiving foreign military aid. Indeed, the protocol flatly prohibits either side from receiving weapons and war materiel of any kind from any foreign country. (In contrast, the agreement provided a wide loophole by allowing military aid under the rather loose "self-defense" conditions specified by the Geneva Agreement.) However, this absolute prohibition is somewhat weakened by another provision that in cases where it is necessary to "change or replace" worn-out equipment, the two sides must first consult together. (The February accord required prior agreement in addition to

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consultations and limited this process to replacement of worn-out equipment -- viz. changing and replacing equipment as provided in the protocol.) Nevertheless, this aspect of the protocol could cause difficulty. Again, Souvanna was aware of our strong preference for letting the Geneva Agreements control all foreign aid deliveries.

-- LPF Forces Adjacent to Thailand: The Agreement itself contains no language which would require a Pathet Lao withdrawal from areas adjacent to the Thai border. The Thai have expressed strong concern on this point and reportedly Souvanna has pressed the Communists to agree. Unless a hypothetical secret understanding exists on this matter, the RTG could have cause for being upset.

-- Joint Commission: The protocol gives the Joint Commission to Implement the Agreement (JCIA) very great responsibilities. The Commission -- which will work on the basis of unanimity -- is responsible for implementing the MIA and POW provisions, neutralization of the capital cities; withdrawal times and sites; import of foreign military equipment; access to enclaves; cease-fire violations; ICC inspections; etc. Disputes in this critical group apparently will be resolved jointly by Souvanna and Souphanouvong, a procedure which gives the Communists a veto over all activities of the Joint Commission. (Recently we have advised Souvanna of our preference that he alone decide Joint Commission disputes.)

-- ICC: The Protocol (Article 25) provides no relief from restrictions on the ICC and in fact conditions any ICC investigation on a prior unanimous request from the Joint Commission. The ICC will function according to the 1962 modalities. Thanks to these provisions, it has no chance of developing into an effective supervisory force.

-- United States Aid: Contrary to our repeated requests that the protocol not specifically mention the United States, Article 26 provides for establishing a group to discuss with the "United States Government" the matter of "U. S. contributions to post-war reconstruction." Despite strong Communist resistance, the Lao, however, have managed to strike all other reference to the United States and Thailand.

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